

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

EVARISTUS MACKEY

DOCKET NO. 05-CV-1423

VERSUS

DISTRICT JUDGE DRELL

WARDEN TAPIA, ET AL.

MAGISTRATE JUDGE KIRK

J U D G M E N T

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, and after an independent (de novo) review of the record including the objections filed by the plaintiff, and having determined that the findings and recommendation are correct under the applicable law;

IT IS ORDERED that Plaintiff's Civil Rights Complaint be and is hereby **DISMISSED**, *sua sponte*, under 28 U.S.C. §1915(e)(2)(B)(i) and (ii) as frivolous and failing to state a claim for which relief can be granted.

This dismissal counts as a "strike" under 28 U.S.C. 1915(g).¹

THUS DONE AND SIGNED in Chambers at Alexandria, Louisiana, on this 21st day of

FEBRUARY, 2007.

[Signature]

DEE D. DRELL
UNITED STATES DISTRICT JUDGE

¹ In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury. 28 USCS § 1915(g).